IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

FRIDAY, THE 16TH MARCH 2007 / 5TH PHALGUNA 1928

A.S.No.350 of 1997(E)

O.S.NO.428/1992 OF THE COURT OF THE SUBORDINATE JUDGE, THODUPUZHA.

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APPELLANT/PLAINTIFF:-

CHERIAN, AGED 67 YEARS, S/O.OUSEPH, KURAVAKKATTU HOUSE, KAVAKKADU KARA, ENANELLUR VILLAGE, MUVATTUPUZHA TALUK.

BY ADV. SRI.K.K.CHANDRAN PILLAI

RESPONDENTS/DEFENDANTS:-
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1. JOSEPH, S/O.LATE OUSEPH, POOCHALIL HOUSE, NEYYASSERY KARA, NEYYASSERY VILLAGE, THODUPUZHA TALUK.
2. JOHN, S/O. LATE OUSEPH, DO. DO.
3. SEBASTIAN, LATE OUSEPH, DO. DO.
4. ANNAKUTTY, D/O.LATE OUSEPH, DO. DO.
5. MARY, D/O.LATE OUSEPH, DO. DO.
6. ELEZABETH @ ALEYKUTTY, D/O.LATE OUSEPH, DO. DO.

R1 TO R4 BY ADV. SRI.V.GIRI.

THIS APPEAL SUIT HAVING BEEN FINALLY HEARD ON 16/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

K.Padmanabhan Nair,J.

A.S.No.350 of 1997-E

Dated, this the 16th day of March, 2007

JUDGMENT

The plaintiff in a suit for declaration and partition is the appellant. The trial Court dismissed the suit. In this appeal filed by the plaintiff, this Court ordered notice to all the respondents. Notice to respondents 5 and 6 is not yet served. Hence the appeal as against them was dismissed.

2. The suit is one for partition. The matter cannot be adjudicated on merits without all the interested parties on the array of parties. Since respondents 5 and 6 were impleaded in the suit as persons having some interest, without them in the party array this appeal cannot be disposed of on merits. So, this appeal is only to be dismissed.

In the result, the appeal is dismissed.

K.Padmanabhan Nair
Judge

vku/-